

AMENDED IN ASSEMBLY APRIL 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 3013

Introduced by Assembly Member Levine

February 22, 2008

An act to amend ~~Section 3048 of the Family Code, relating to child custody~~ Sections 697.510 and 697.670 of the Code of Civil Procedure, relating to judgment liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 3013, as amended, Levine. ~~Child custody; abduction. Judgment liens; continuation.~~

Existing law provides that a judgment lien on specified personal property is created by filing a notice of judgment lien in the office of the Secretary of State. Existing law also provides that, unless the money judgment is satisfied or the judgment lien is terminated or released, the judgment lien continues for 5 years from the date of filing.

This bill would authorize a continuation statement, as defined, to be filed not more than 6 months before the expiration of the 5-year period of the judgment lien. A continuation statement would extend the effectiveness of the judgment lien for another 5 years commencing on the date the lien would have expired. The bill would authorize the filing of successive continuation statements. The bill would set forth the circumstances under which the lien would be extinguished. In that case, the bill would require the judgment creditor to file a statement of release within 20 days after the judgment creditor receives an authenticated demand from a judgment debtor. The bill would also authorize the person who made the demand to apply for an order releasing the judgment lien, as specified, if the judgment creditor does not file a

statement of release pursuant to that provision. The bill would set forth related fees and definitions for these provisions, and provide for attorney's fees in an action or proceeding maintained pursuant to these provisions. The bill would provide that a court order to release the judgment lien may be filed in the office of the Secretary of State.

~~Existing law makes it a crime to take, entice away, keep, withhold, or conceal a child and maliciously deprive a lawful custodian of a right to custody, or a person of a right to visitation. Existing law provides immunity from this crime for certain persons, including, but not limited to, a person with a right to custody of a child who has been a victim of domestic violence and who complies with specified requirements. Existing law, which incorporates the federal Synclair-Cannon Child Abduction Prevention Act of 2002, requires a court, in cases in which the court becomes aware of facts that may indicate a risk of abduction of a child, to consider specified factors in determining the risk of abduction and whether measures are needed to prevent that abduction. If the court makes a finding that there is a need for preventative measures after considering those factors, existing law requires the court to consider taking one or more of several enumerated measures to prevent the abduction of the child.~~

~~This bill would require the court in determining the risk of abduction and whether measures are needed to prevent that abduction, to consider the importance of parental and custodial rights, the harmful effects of abduction by a parent, and the potential threat of producing psychological trauma to abducted children and left-behind parents. This bill would require the court to consider whether a foreign country will cooperate with the enforcement of a custody order, when determining whether measures are needed to prevent the abduction of the child by one parent. In determining the risk of abduction, this bill would require the court to consider whether a party is recognized by a government agency for intentionally filing false or misleading claims on government documents.~~

~~This bill would also enumerate factors the court must consider in determining whether a threat of abduction of a minor child to a foreign country is present. This bill would also require that any conditions selected by the court to prevent the abduction of the child must be selected to guarantee the safety of the child, enforce the best interests of the child, and eliminate the threat of abduction.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 697.510 of the Code of Civil Procedure*
2 *is amended to read:*

3 697.510. (a) A judgment lien on personal property described
4 in Section 697.530 is created by filing a notice of judgment lien
5 in the office of the Secretary of State pursuant to this article. A
6 judgment lien may be created under this article only if the judgment
7 is a money judgment that was first entered in this state after June
8 30, 1983. Except as provided in subdivision (b) of Section 697.540,
9 a judgment lien may not be created under this article if the money
10 judgment is payable in installments unless all of the installments
11 under the judgment have become due and payable at the time the
12 notice of judgment lien is filed.

13 (b) ~~Unless the money judgment is satisfied or the judgment lien~~
14 ~~is terminated or released~~ *Except as otherwise provided in*
15 ~~subdivision (c), (e), or (g), the judgment lien continues for five~~
16 ~~years from the date of filing.~~

17 ~~(e) Notwithstanding Section 697.020, the priority of a judgment~~
18 ~~lien created under this article does not relate back to the date an~~
19 ~~earlier judgment lien was created under this article.~~

20 (c) *The effectiveness of a filed judgment lien lapses on the*
21 ~~expiration of the period described in subdivision (b) unless, before~~
22 ~~the lapse, a continuation statement is filed pursuant to subdivision~~
23 ~~(d). Upon lapse, the judgment lien created by the filing of a notice~~
24 ~~pursuant to subdivision (a) ceases to be effective.~~

25 (d) *A continuation statement may be filed only within the*
26 ~~six-month period prior to the expiration of the five-year period~~
27 ~~specified in subdivision (b).~~

28 (e) *A continuation statement that is not filed within the six-month*
29 ~~period prescribed by subdivision (d) is ineffective. Upon timely~~
30 ~~filing of a continuation statement, the effectiveness of the initial~~
31 ~~notice of judgment lien continues for a period of five years~~
32 ~~commencing on the day on which the notice of judgment lien would~~
33 ~~have become ineffective in the absence of the filing. Upon the~~
34 ~~expiration of the five-year period, the notice of judgment lien lapses~~
35 ~~in the same manner as provided in subdivision (c), unless, before~~
36 ~~the lapse, another continuation statement is filed pursuant to~~
37 ~~subdivision (d). Succeeding continuation statements may be filed~~

1 *in the same manner to continue the effectiveness of the initial notice*
2 *of judgment lien.*

3 *(f) For purposes of this section, “continuation statement” means*
4 *an amendment of a notice of judgment lien which does both of the*
5 *following:*

6 *(1) Identifies, by its file number, the initial notice of judgment*
7 *lien to which it relates.*

8 *(2) Indicates that it is a continuation statement for, or that it is*
9 *filed to continue the effectiveness of, the identified notice of*
10 *judgment lien.*

11 *(g) (1) Notwithstanding any other provision of this section, the*
12 *lien created by this section is extinguished at the earliest to occur*
13 *of the following:*

14 *(A) The money judgment is satisfied.*

15 *(B) The period of enforceability of the judgment, including any*
16 *extension thereof pursuant to Article 2 (commencing with Section*
17 *683.110) of Chapter 3 of Division 1, terminates.*

18 *(C) The judgment lien is terminated or released.*

19 *(2) If the lien created by this section is extinguished, the*
20 *judgment creditor shall file a statement of release within 20 days*
21 *after the judgment creditor receives an authenticated demand from*
22 *the judgment debtor.*

23 *(h) If a judgment creditor does not file a statement of release*
24 *pursuant to subdivision (g), the person who made the demand may*
25 *apply to the court on noticed motion for an order releasing the*
26 *judgment lien. Notice of motion shall be served on the judgment*
27 *creditor. Service shall be made personally or by mail. Upon*
28 *presentation of evidence to the satisfaction of the court that the*
29 *period of enforceability of the judgment has terminated, the court*
30 *shall order the judgment creditor to prepare and file the statement*
31 *of release or shall itself order the release of the judgment lien. The*
32 *court order may be filed in the office of the Secretary of State and*
33 *shall have the same effect as the statement of release demanded*
34 *under subdivision (g).*

35 *(i) The court shall award reasonable attorney’s fees to the*
36 *prevailing party in any action or proceeding maintained pursuant*
37 *to this section.*

38 *(j) The damages provided by this section are not in derogation*
39 *of any other damages or penalties to which an aggrieved person*
40 *may be entitled by law.*

1 (k) *The fees for filing and indexing a record under this section,*
2 *or for responding to a request for information from the filing office,*
3 *are as set forth in Section 9525 of the Commercial Code.*

4 (l) *The provisions of Sections 9522 and 9523 of the Commercial*
5 *Code shall apply to a notice of judgment lien to the same extent*
6 *as to a filed financing statement.*

7 (m) *Terms for which definitions are not set forth in Division 1*
8 *(commencing with Section 680.010) have the definitions set forth*
9 *in the Commercial Code.*

10 SEC. 2. *Section 697.670 of the Code of Civil Procedure is*
11 *amended to read:*

12 697.670. (a) The Secretary of State may prescribe, provided
13 that a cost-savings would be achieved thereby:

14 (1) The forms for the notice of judgment lien on personal
15 property and the statement of *continuation*, release, or
16 subordination provided for in this article.

17 (2) The form for the statement provided for in Section 697.640
18 and the situations when that form is required or is not required.

19 (b) A form prescribed by the Secretary of State for a notice or
20 statement pursuant to subdivision (a) is deemed to comply with
21 this article and supersedes any requirements specified in this article
22 for the notice or statement.

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25 **All matter omitted in this version of the bill**
26 **appears in the bill as introduced in**
27 **Assembly, February 22, 2008(JR11)**
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